

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Shelton	Team: Squad #6	CCRB Case #: 201807928	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 09/23/2018 12:15 AM	Location of Incident: Ditmas Avenue, between Dorset Street and East 86th Street	Precinct: 67	18 Mo. SOL 3/23/2020	EO SOL 11/7/2020	
Date/Time CV Reported Tue, 09/25/2018 12:09 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/25/2018 12:09 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Sidorskiy	14429	931988	PBBS SU
2. POM Eric Cavallo	08649	957439	PBBS SU

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Sidorskiy	Abuse: Police Officer Michael Sidorskiy stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Eric Cavallo	Abuse: Police Officer Eric Cavallo stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Michael Sidorskiy	Abuse: Police Officer Michael Sidorskiy refused to provide his name to § 87(2)(b)	
D.POM Eric Cavallo	Abuse: Police Officer Eric Cavallo searched the vehicle in which § 87(2)(b) was an occupant.	
E.POM Michael Sidorskiy	Abuse: Police Officer Michael Sidorskiy searched the vehicle in which § 87(2)(b) was an occupant.	
F.POM Michael Sidorskiy	Abuse: Police Officer Michael Sidorskiy searched § 87(2)(b)	

Case Summary

On September 25, 2018, § 87(2)(b) filed the following complaint with the CCRB via telephone.

On September 23, 2018, at approximately 12:15 a.m., § 87(2)(b) drove her vehicle along Ditmas Avenue between Dorset Street and 86th Street in Brooklyn when she was stopped by PO Michael Sidorskiy and PO Eric Cavallo of Patrol Borough Brooklyn South's Auto Crimes Unit (**Allegations A and B: Abuse of authority, § 87(2)(g)**). Officers approached § 87(2)(b)'s vehicle. She asked PO Sidorskiy for his name, but he refused to provide it (**Allegation C: Abuse of authority, § 87(2)(g)**). PO Sidorskiy told § 87(2)(b) that she was pulled over due to her criminal history. He told § 87(2)(b) to step out of the vehicle before telling PO Cavallo to search her vehicle. PO Sidorskiy and § 87(2)(b) went to the back of her vehicle as PO Cavallo searched the vehicle (**Allegation D: Abuse of authority, § 87(2)(g)**). PO Sidorskiy searched the trunk of § 87(2)(b)'s vehicle (**Allegation E: Abuse of authority, § 87(2)(g)**). PO Sidorskiy then asked § 87(2)(b) to expose her waistband so that he could inspect it, which she did (**Allegation F: Abuse of authority, § 87(2)(g)**). When PO Cavallo reported that he found nothing in § 87(2)(b)'s vehicle, PO Sidorskiy told him to search again three or four more times. When nothing was revealed, PO Sidorskiy told § 87(2)(b) to return to her vehicle and officers had no further interaction with her.

No arrests were made and no summonses were issued during this incident.

No video footage regarding this incident was made available.

Findings and Recommendations

Allegation A – Abuse of authority: Police Officer Michael Sidorskiy stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation B – Abuse of authority: Police Officer Eric Cavallo stopped the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that on September 23, 2018, at approximately 12:15 a.m., PO Sidorskiy and PO Cavallo stopped § 87(2)(b)'s vehicle on Ditmas Avenue near the corner of Dorset Street in Brooklyn (Board Review 01-03). It is also undisputed that § 87(2)(b)'s vehicle had dark tints on all four windows.

PO Cavallo and PO Sidorskiy both stated that they stopped § 87(2)(b)'s vehicle after observing excessive tints on its windows. PO Sidorskiy noted his observation of her excessive tints in his memo book (Board Review 04).

New York State Vehicle and Traffic Law § 375 regarding equipment, section 12-a, subsection b, notes that no person shall operate a sedan on which the front and rear side windows have been covered by or treated with any material which has a light transmittance of less than seventy percent (Board Review 05). People v. Ingle, 36 N.Y. 2d 413 (1975) states that a specific automobile may be stopped by a police officer when that officer has a reasonable suspicion that the automobile is in violation of the Vehicle and Traffic Law (Board Review 06).

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Abuse of authority: Police Officer Michael Sidorskiy refused to provide his name to § 87(2)(b)

§ 87(2)(b) stated that when she handed over her license and registration to PO Sidorskiy, she asked if the officers were from the 67th Precinct. PO Sidorskiy told her that they were not and that they were from Brooklyn South. § 87(2)(b) then asked PO Sidorskiy who he was, but PO Sidorskiy did not answer. He did not provide his name at any point during the interaction.

PO Sidorskiy did not recall if § 87(2)(b) ever asked for his name. However, he denied ever refusing to provide that information.

PO Cavallo stated that § 87(2)(b) never asked for either officer's name and at no point did either officer refuse to provide his name.

§ 87(2)(g)

Allegation D – Abuse of authority: Police Officer Eric Cavallo searched the vehicle in which § 87(2)(b) was an occupant.

Allegation E – Abuse of authority: Police Officer Michael Sidorskiy searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that at the time of the incident, § 87(2)(b) was wearing a protective vest. It is also undisputed that at least one of the subject officers entered through one of the front doors of her vehicle and searched the front area. No contraband was revealed. It is also undisputed that between § 87(2)(b), and § 87(2)(b), § 87(2)(b) was arrested twice § 87(2)(b)

§ 87(2)(b) stated that when PO Sidorskiy and PO Cavallo approached her vehicle, PO Sidorskiy asked about a protective vest that § 87(2)(b) was wearing. She explained that she was wearing such a vest since she was a security guard, and was on her way to a security job when she was pulled over. PO Sidorskiy told § 87(2)(b) that the reason for the vehicle stop was her criminal history, which was revealed to officers when they ran her license plate while following her vehicle. She stated that PO Cavallo then ran her information on his cellphone, at which point he started detailing her criminal history aloud. PO Sidorskiy asked § 87(2)(b) to step out of the vehicle. She refused but, after two more orders, she complied. PO Sidorskiy then told PO Cavallo to search the vehicle since, due to her criminal history, they would find something illegal. When PO Cavallo searched the front area of § 87(2)(b)'s vehicle and found nothing, PO Sidorskiy told him to search the car again. PO Sidorskiy told PO Cavallo to search § 87(2)(b)'s vehicle at least three times, but nothing illegal was ever revealed. While PO Cavallo searched the vehicle, PO Sidorskiy stood at the rear of the vehicle with § 87(2)(b). He opened the trunk and moved its contents around, stating that he was trying to find something. However, he found nothing illegal. Though § 87(2)(b)'s view of PO Cavallo was obstructed due to the open trunk, she stated that

he searched both the front and back areas of her vehicle. She was not certain whether he opened any compartments. PO Sidorskiy closed the trunk and told § 87(2)(b) that she could return to her vehicle. PO Sidorskiy and PO Cavallo then returned to their vehicle without issuing any summonses or verbal warnings.

PO Cavallo and PO Sidorskiy both stated that upon approaching § 87(2)(b)'s vehicle, they immediately observed that § 87(2)(b) was wearing a bulletproof vest. Both officers also observed a police radio that was tuned into the same frequency as the officers' own radios, that of the 67th Precinct. When PO Sidorskiy asked § 87(2)(b) about the bulletproof vest, she explained that it was for a security job that she was driving to as well as the fact that somebody wanted to kill her. She did not elaborate on who threatened her life, or to what extent. Both officers stated that due to the bulletproof vest, the police radio, and § 87(2)(b)'s belief that her life was in danger, they believed that she might be in possession of a firearm. They asked her to exit the vehicle. When asked to exit the vehicle, § 87(2)(b) complied without issue.

§ 87(2)(g) Before searching the vehicle, PO Sidorskiy stated that he asked § 87(2)(b) if she had any firearms, which she denied, and patted down § 87(2)(b)'s person for any weapons. The frisk revealed nothing. PO Cavallo did not mention any such frisk or the fact that officers ever asked § 87(2)(b) if she had any firearms. (As § 87(2)(b) never alleged a frisk, this allegation was not pleaded.) PO Sidorskiy stated that he asked for § 87(2)(b)'s consent to search the vehicle, which she gave. PO Cavallo never mentioned either officer asking for her consent. Both officers took ownership of searching her vehicle, stating that their partner never entered the vehicle but stayed at the rear of § 87(2)(b)'s vehicle with § 87(2)(b).

§ 87(2)(g) PO Sidorskiy and PO Cavallo stated that they entered her vehicle through the driver's door and searched the lungable areas near the middle console and driver's door, as well as looking around the vehicle for any additional contraband. Both officers stated that they searched for about a minute, finding nothing, before exiting the vehicle. Neither officer recalled PO Sidorskiy ever searching the trunk. After the negative search of § 87(2)(b)'s vehicle, officers told her that she was free to go without issuing any summonses.

People v. Carvey, 89 N.Y.2d 707 (1997) describes the wearing of a bulletproof vest as being immediately associated with the presence and use of a firearm, and demonstrates its owner's readiness and willingness to use a deadly weapon (Board Review 09). People v. Carvey allows an officer to a limited search of a vehicle without the occupants' consent if there are additional factors to the wearing of a bulletproof vest that lead an officer to reasonably conclude the presence of a weapon.

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(g)

Allegation F – Abuse of authority: Police Officer Michael Sidorskiy searched § 87(2)(b)

§ 87(2)(b) stated that as PO Cavallo searched inside her vehicle, PO Sidorskiy told her to pull up her shirt a little bit so that he could see her back at her waist. § 87(2)(b) put her hands up, lifted her shirt up to show her waist area, and slowly turned in a complete circle. PO Sidorskiy did not physically search her.

PO Sidorskiy stated that he never searched § 87(2)(b). He never asked her to expose her waistband or to turn around to show her entire waistband.

PO Cavallo stated that he was unaware of PO Sidorskiy ever searching § 87(2)(b) including asking to see her waist area, at any point during the incident.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 10).
- PO Sidorskiy has been a member of service for 16 years and has been a subject in 19 other CCRB complaints and 40 allegations, none of which were substantiated (see officer history). § 87(2)(g)
- PO Cavallo has been a member of service for four years and has been a subject in two other CCRB complaints and four allegations, none of which were substantiated (see officer history). § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b)
- On January 18, 2019, a FOIL request was submitted online to the Office of the New York City Comptroller inquiring about any Notices of Claim regarding this incident. Once received, the results will be added to the case file.

Squad No.: 6

Investigator:	_____	Inv. Benjamin Shelton	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	IM Monique West	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date